

§ 417.618 Opportunity to submit evidence.

The HMO or CMP must provide the parties to the reconsideration reasonable opportunity to present evidence and allegations of fact or law, related to the issue in dispute, in person as well as in writing. In the case of an expedited reconsideration, the opportunity to present evidence is limited by the short time frames for making decisions, and the organization must inform the enrollee, or the authorized representative of the enrollee, of the conditions for submitting the evidence.

[62 FR 23375, Apr. 30, 1997]

§ 417.620 Responsibility for reconsiderations; time limits.

(a) If the HMO or CMP can make a reconsidered determination that is completely favorable to the enrollee, the HMO or CMP issues the reconsidered determination.

(b) If the HMO or CMO recommends partial or complete affirmation of its adverse determination, the HMO or CMP must prepare a written explanation and send the entire case to HCFA. HCFA makes the reconsidered determination.

(c) The HMO or CMP must issue the reconsidered determination to the enrollee, or submit the explanation and file to HCFA within 60 calendar days from the date of receipt of the request for reconsideration. In the case of an expedited reconsideration, the HMO or CMP must issue the reconsidered determination as specified in § 417.617(c)(3) or submit the explanation and file to HCFA within 24 hours of its determination, the expiration of the 72-hour review period, or the expiration of the extension.

(d) For good cause shown, HCFA may allow extensions to the time limit set forth in paragraph (c) of this section.

(e) Failure by the HMO or CMP to provide the enrollee with a reconsidered determination within the time limits described in paragraph (c) of this section or to obtain a good cause extension described in paragraph (d) of this section constitutes an adverse determination, and the HMO or CMP must submit the file to HCFA.

(f) If the HMO or CMP refers the matter to HCFA, it must concurrently notify the beneficiary of that action.

[59 FR 59942, Nov. 21, 1994, as amended at 62 FR 23376, Apr. 30, 1997]

§ 417.622 Reconsidered determination.

A reconsidered determination is a new determination that—

(a) Is based on a review of the organization determination, the evidence and findings upon which it was based, and any other evidence submitted by the parties or obtained by HCFA or the HMO or CMP; and

(b) Is made by a person or persons who were not involved in making the organization determination.

[50 FR 1346, Jan. 10, 1985, as amended at 59 FR 59941, 59942, Nov. 21, 1994]

§ 417.624 Notice of reconsidered determination.

(a) *Responsibility for notice.* The entity that makes the reconsidered determination is responsible for mailing notice to the parties and, if that entity is not HCFA, for sending a copy to HCFA.

(b) *Content of notice.* The notice must—

(1) State the specific reasons for the reconsidered determination;

(2) Inform the party of his or her right to a hearing if the amount in controversy is \$100 or more; and

(3) Describe the procedures that the party must follow to obtain a hearing.

[50 FR 1346, Jan. 10, 1985]

§ 417.626 Effect of reconsidered determination.

A reconsidered determination is binding on all parties unless a request for a hearing is filed in accordance with the provisions of § 417.632, or unless it is revised in accordance with § 417.638.

[50 FR 1346, Jan. 10, 1985, as amended at 62 FR 25855, May 12, 1997]

§ 417.630 Right to a hearing.

If the amount remaining in controversy is \$100 or more, any party to the reconsideration who is dissatisfied with the reconsidered determination has a right to a hearing. (The amount remaining in controversy, which can include any combination of Part A and